

## **TENTATIVE RULINGS**

**FOR: November 15, 2016**

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

**Unlawful Detainer Cases** – No tentative ruling will be posted because access to records is not permitted until 60 days after the complaint is filed. Parties **must appear** for all unlawful detainer demurrers, motions to quash, and other matters. After 60 days, tentative rulings will be posted in accordance with the local rules.

**Court Reporting Services** – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

### **PROBATE CALENDAR – Hon. Rodney Stone, Dept. F (Criminal Courts Bldg.- 1111 Third St.)**

**In the Matter of Bria Arnold**

**16CV000805**

PETITION FOR CHANGE OF NAME

#### **APPEARANCE REQUIRED**

.....  
**Estate of Walter Leroy Quackenbush**

**16PR000173**

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY WITH WILL ANNEXED AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

**TENTATIVE RULING:** The Court previously construed the petition as requesting probate of will and for letters of administration with will annexed. The Proof of Publication is not in the court file. If the Proof of Publication is filed before or at the hearing, the petition will be granted. Otherwise, the petition will be denied without prejudice.

.....

**Conservatorship of Ivan Avina**

**26-54919**

REVIEW HEARING

**TENTATIVE RULING:** The matter is continued to December 15, 2016, at 8:30 a.m. in Dept. F to allow the conservator to file: (1) Notice of Conservatee's Rights (Judicial Council form GC-341); and (2) Determination of Conservatee's Appropriate Level of Care (Judicial Council form GC-355). The clerk is directed to send notice to the parties.

.....

**Conservatorship of Miguelangel Gutierrez**

**26-57059**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the Court finds the conservator is acting in the best interest of the conservatee. Thus, the case is set for a biennial review hearing in two years, on November 15, 2018, at 8:30 a.m. in Dept. I. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

**PROBATE CALENDAR – Hon. Diane Price, Dept. H (Criminal Courts Bldg.-1111 Third St.)**

**In the Matter of Abbigail Barnett**

**16CV000810**

PETITION FOR CHANGE OF NAME

**TENTATIVE RULING:** Notice has been properly published and no written objections have been filed. The petition for name change is GRANTED without need for appearance.

.....

**In the Matter of Vanessa Villanueva**

**16CV000832**

PETITION FOR CHANGE OF NAME

**TENTATIVE RULING:** There is no Proof of Publication in the court file. Moreover, pursuant to Code of Civil Procedure section 1277, the non-petitioning parent must be personally served with the petition for name change and given 30 days' notice of the hearing. The court file contains no proof of service on the minor's father. If a proper Proof of Publication and proof of service are filed before the hearing, the petition will be granted. If these documents are not filed, the matter will be continued to January 6, 2017, at 8:30 a.m. in Dept. F to allow time for the filing of the proof of publication and for proper service.

.....

**Estate of Kathleen M Torres**

**16PR000036**

FIRST AND FINAL ACCOUNT AND REPORT OF ADMINISTRATOR AND PETITION FOR ITS SETTLEMENT; FOR FINAL DISTRIBUTION; FOR STATUTORY ATTORNEY AND ADMINISTRATOR FEES; FOR EXTRAORDINARY ATTORNEY FEES; FOR COSTS; AND FOR REDUCTION IN BOND

**TENTATIVE RULING:** GRANT Petition.

.....

**Estate of Timothy Arnstein**

**16PR000088**

PETITION FOR INSTRUCTIONS

**TENTATIVE RULING:** GRANT petition.

.....

**Conservatorship of Leonard Delano Hubbard**

**26-48598**

FOURTH ACCOUNTING AND REPORT OF CONSERVATOR AND PETITION FOR ITS SETTLEMENT AND FOR FEES

**TENTATIVE RULING:** GRANT petition, including fees as prayed. After a review of the matter, the Court finds the conservator is acting in the best interest of the conservatee. Thus, the matter is set for a biennial review hearing and an accounting in two years, on November 15, 2018, at 8:30 a.m. in Dept. F. All accounting documents must be filed at least 30 days prior to the hearing. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

.....

**Guardianship of Crystal de Haro Lares, et al.**

**26-67162**

ACCOUNT AND REPORT OF GUARDIAN

**APPEARANCE REQUIRED**

.....

**Conservatorship of Vaudine Jane Gardella**

**PR25504**

TENTH ACCOUNT AND REPORT OF CONSERVATOR OF THE ESTATE, AND PETITION FOR APPROVAL OF ACCOUNT; FOR ATTORNEY FEES; FOR CONSERVATOR FEES; FOR COSTS; FOR REDUCED BOND; AND FOR CONTINUATION OF CONSERVATORSHIP

**TENTATIVE RULING:** GRANT petition, including fees as prayed. After a review of the matter, the Court finds the conservator is acting in the best interest of the conservatee. Thus, the matter is set for a biennial review hearing and an accounting in two years, on November 15, 2018 at 8:30 a.m. in Dept. F. All accounting documents must be filed at least 30 days prior to the hearing. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

**CIVIL LAW & MOTION CALENDAR – Hon. Diane Price, Dept. H (Criminal Courts Bldg.-1111 Third St.)**

**Joseph Zammit, et al. v. Kenneth Mays**

**16CV000385**

MOTION TO SET ASIDE DEFAULT

**TENTATIVE RULING:**

Defendant Kenneth Mays' motion to set aside default based on his mistake and inadvertence is GRANTED. (Code Civ. Proc., § 473, subd. (b).)

Plaintiffs Joseph Zammit and Ken Mays Plumbing, Inc.'s request for attorney's fees in the amount of \$12,000 is DENIED. There is no basis for including the time for the motion to strike in this request for fees. Moreover, the amount requested based on 15.25 hours of work is patently unreasonable for an opposition to a simple motion to set aside a default. The Court will not impose a monetary penalty under Code of Civil Procedure section 473, subdivision (c)(1).

The Court elects not to address plaintiffs' evidentiary objections as they are not material to the outcome of the motion.

Defendant shall file his answer within 5 calendar days of service of notice of entry of order.

.....  
**Reuben Freeman v. Tailored Living Choices**

**16CV000784**

DEFENDANT TAILORED LIVING CHOICES, LLC'S MOTION TO STRIKE COMPLAINT ALLEGATIONS

**TENTATIVE RULING:** The Notice of Motion does not provide notice of the court's tentative ruling system as required by Local Rule 2.9. Defendant's counsel is directed to contact Plaintiff's counsel forthwith and advise Plaintiff's counsel of Local Rule 2.9 and the court's tentative ruling procedure. If Defendant's counsel is unable to contact Plaintiff's counsel prior to the hearing, Defendant's counsel shall be available at the hearing, in person or by telephone, in the event Plaintiff's counsel appears without following the procedures set forth in Local Rule 2.9.

Defendant's Request for Judicial Notice is GRANTED. The Motion is GRANTED, excluding Paragraph 69 and Paragraph 4, line 11 of the Prayer for Relief. Plaintiff is to file an

amended complaint omitting the stricken language for clarity; the amended complaint shall be filed and served within 10 days of the date Defendant serves notice of entry of the court's order.